THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.753 OF 2007

Between :

Smt.B.Krishna Kumari wife of Sri LoganathaNaidu and another

… Petitioners

And

Indian Bank, rep. By its authorized Officer, Chittoior and another

… Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.753 OF 2007

ORAL ORDER:

On 23-06-2006 the respondent-Bank had issued a notice under Sec.13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"), calling upon the petitioners to pay Rs.3,76,307/- together with interest from 01-04-2006 till the date of payment, within sixty(60) days from the date of the notice failing which the respondent-Bank would exercise its rights under the Act without further reference to the petitioners. The petitioners submitted a representation through the 1st petitioner on 15-07-2006, followed by a lawyer's notice on 26-09-2006 complaining of defaults by the respondent-Bank in respect of certain reciprocal obligations under the terms of the loan and asserting that such failure led to the petitioners' inability to repay the loan instalments in time.

By a communication dated.03-10-2006 the respondent-

Bank addressed the counsel for the petitioner refuting the allegations in the lawyer's notice and reiterating the demand for payment of Rs.3,76,307/- plus interest thereon as stipulated failing which further proceedings were threatened to be initiated. At this stage the petitioner is before this Court contending that the respondent-Bank is acting arbitrarily and unfairly in initiating the proceedings under the provisions of the Act despite itself having failed to perform its obligations under the terms of the loan agreement between the parties.

As and when any action is taken under Sec.13(4) of the Act and against such action, the petitioners have available an appellate remedy under Sec.17 of the Act before the Debt Recovery Tribunal. The appellate remedy could be preferred within 45 days from the date on which measures under Sec.13(4) of the Act are initiated by the respondent-Bank. No proceedings under Sec.13(4) of the Act have yet been initiated. As and when proceedings under Sec.13(4) are initiated, the petitioners may seek the appropriate relief under Sec.17 of the Act.

On the aforesaid analysis there are no merits in this writ petition. This Court is not inclined to adjudicate upon the issues presented by the petitioners in the context of the petitioners having available a statutory appellate remedy.

The writ petition is accordingly dismissed. The petitioners are at liberty to pursue the available alternative remedy. In the circumstances no order as to costs.

GODA RAGHURAM,J

18th JANUARY 2007
*TSNR